IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL, CIVIL JURISDICTION

WRIT **PETITION NO.3164 OF 2005**

Hanumant B. Yadav .....Petitioner

Vs.

National Textile Corporation

& Ors. ...Respondents

Ms.Bina Dholakia, for the Petitioner
Mr. V.M. Parkar, for respondent No.1.

CORAM: **F.I. REBELLO &**
ANOOP V. MOHTA**, JJ.**
DATE: 7TH NOVEMBER,2006

P.C.

. Petitioner had approached the authority under the Payment of Gratuity Act for interest for late payment. An order came to be passed in their favour on 3rd April, 2003. As the respondents have failed to pay the amount nor a Recovery Certificate is issued by Respondent No.4, the petitioner has approached this Court. The order dated 3rd April,2003, has not been challenged by the petitioner herein.

2. The petitioner herein has preferred an Appeal against the order dated 3rd April, 2003, whereby according to them, the interest awarded is lesser than what they were entitled to.

3. Respondents have filed a reply. In the

reply, it is set out that Consent Terms were filed before this Court in Writ Petition No.1776 of 2000 and based on the Consent Terms, the petition was disposed of by this Court on 13th March, 2000, one of the items included being the amount of gratuity. In these circumstances, it is pointed out that they were not bound to pay any amount.

4. We have heard learned Counsel for the parties. We find that the Consent Terms were filed on 13th March, 2000. After that, the petitioner moved the authority under the Payment of Gratuity Act which passed the order on 3rd April, 2003. That order has not been challenged by the Respondents herein. In other words, in so far as respondents are concerned, that order has become final. That being the case, in our opinion, the Consent Terms will not stand in the way of the petitioner seeking to recover in terms of the order dated 3rd April, 2003 of the Authority under the Payment of Gratuity Act. However, considering equities, we propose to dispose of this Petition by issuing the following directions:-

(i) Respondents will pay to the petitioner, the amount as set out in the order of 3rd April, 2003, within six weeks from today.

(ii) On such amount being paid, the Appellants will withdraw the Appeal against the order of 3rd

April, 2003, within two weeks thereafter.

5. Rule made absolute accordingly. There shall be no order as to costs.

(**F.I. REBELLO, J)**

(**ANOOP V. MOHTA J).**